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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,080	11/20/2003	David L. Burnett	56464-00005USPT	8637
23932	7590	11/29/2005		
JENKENS & GILCHRIST, PC 1445 ROSS AVENUE SUITE 3200 DALLAS, TX 75202			EXAMINER MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/718,080	<b>Applicant(s)</b> BURNETT ET AL.	
	<b>Examiner</b> Katherine Moran	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 and 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23, 27-30 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/25, 10/13, 7/28/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-23, 26-30, and 34-42 in the reply filed on 11/7/05 is acknowledged. Claims 24-26, and 31-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/7/05. It is noted that claim 26 is drawn to the species III as shown in Figure 8 and therefore is also withdrawn as being drawn to a nonelected species. Claims 1-23, 27-30, and 34-42 are pending.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 52. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the interior region having ribs along a first and second wall and a plurality of bumps and ridges along a surface of the first and second walls must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 21 recites that the ribs are of different lengths. Claims 22 and 23 recite a body comprising an interior region having ribs along a first and second wall and a plurality of bumps and ridges along a surface of the first and second walls. Also, the specification does not include the term "ridges".

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6-9, 13, 14, 18, 19, 27, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Koffler (U.S. 1,990,553). Koffler discloses the invention as claimed. Koffler teaches a rubber hand protector and grip enhancer comprising a generally C-shaped body, a finger receiving pocket 10 at a first end of the body and a thumb receiving pocket 11 at a second end of the body. The rubber enhancer is heat resistant, has low thermal conductivity and an inherent anti-slip characteristic. Each pocket includes a flap integrally formed with the C-shaped body. The body is flexible about a hinge region 12 between the first and second ends, with the hinge region shaped to substantially conform to a user's palm. The hinge region 12 has a

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substantially convex outer surface shape. The length of the C-shaped body from the hinge region to the first end and from the hinge region to the second end is sized to generally conform to a length of a user's hand from a palm region to finger tips. With regard to claim 27, the pockets are substantially similar in shape in that both pockets include rounded tips.

7. Claims 1, 7, 12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Staples (U.S. 580,148). Staples discloses the invention as claimed. Staples teaches a hand protector and grip enhancer comprising a generally C-shaped body (when the device is worn), a finger receiving pocket at a first end of the body and a thumb receiving pocket at a second end of the body as shown in Figure 1. The body is flexible about a hinge region between the first and second ends and the body is symmetrical about the hinge region, wherein a length of the finger receiving pocket extending from the hinge region to the first end is substantially similar to the length of the thumb receiving pocket extending from the hinge region to the second end.

8. Claims 1, 7, 11, 16, 28, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Detwiler (U.S. 1,416,001). Detwiler discloses the invention as claimed. Detwiler teaches a hand protector and grip enhancer comprising a generally C-shaped body (when the device is worn), a finger receiving pocket A at a first end of the body and a thumb receiving pocket B at a second end of the body. The body is flexible about a rubber hinge region C between the first and second ends. The hinge region has a substantially flat outer surface shape. The pockets A,B are not similar in shape in that pocket A is oblong and pocket B is tubular. Figure 3 shows that the length of pocket A

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extending from the hinge region to the first end is not similar to the length of pocket B extending from the hinge region to the second end.

9. Claims 1 and 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Uhri (U.S. 1,955,989). Uhri discloses the invention substantially as claimed. Uhri teaches a hand protector and grip enhancer comprising a generally C-shaped body (when the device is worn), a finger receiving pocket 3 at a first end of the body and a thumb receiving pocket 4 at a second end of the body, with the pockets including holes 10 to permit air flow and drainage.

10. Claims 1, 29, 30, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (U.S. 4,188,055). Green discloses the invention as claimed. Green teaches a hand protector and grip enhancer 1 comprising a generally C-shaped body, a finger receiving pocket 26 at a first end of the body and a thumb receiving pocket 27 at a second end of the body. The first and second ends have a substantially flat tip shape as shown in Figure 2.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koffler '553 in view of Bignon et al. (U.S. 6,532,597). Koffler discloses the invention substantially as claimed. However, Koffler doesn't teach the body formed from silicone. Bignon teaches a glove 10 formed from silicone. Bignon teaches that silicone is known as a material with superior heat-resistant properties, is non-slip, and does not burn. Therefore, it would have been obvious to form Koffler's glove from silicone in order to provide a device that can withstand extreme temperatures.

13. Claims 10, 20, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffler '553 in view of Andrews (U.S. 4,682,803). Koffler discloses the invention substantially as claimed. However, Koffler doesn't teach ribs at an interior region, wherein the ribs define the convex outer surface shape of the hinge region. Andrews '803 teaches a C-shaped hand protector and grip enhancer as shown in Figure 5, with ribs 16,34 defining the convex outer surface shape of the hinge region. This particular embodiment is made in a single molding operation. Ribs 16 allow for enhanced gripping by the wearer's fingers such that the device remains in position on the hand. Therefore, it would have been obvious to one of ordinary skill in the art to



provide Koffler's device with the ribs as taught by Andrews, so that the device may be integrally formed with enhanced gripping elements.

14. Claims 21, 37, 38, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffler in view of Andrews as applied to claims 20 and 36 above, and further in view of Garvey (U.S. 1,279,855). Koffler, when viewed with Andrews, discloses the invention substantially as claimed. However, Koffler doesn't teach ribs or ridges of different lengths or a plurality of bumps. Garvey teaches a hand protector with ribs 7,7a of different lengths depending upon their placement upon the glove's interior surface. Garvey teaches that the differing lengths are necessary depending upon the size of the glove and how the glove is flexed, with rib 7a being shorter in order to accommodate the primary flexing palm area of the glove. Adding a plurality of bumps to the interior walls would further add to the gripping properties of the glove. Therefore, it would have been obvious to one of ordinary skill in the art to provide Koffler's device with ribs of different lengths in order to accommodate the particular size of the device and also to allow for adequate flexing of the device, and to add a plurality of bumps to improve gripping.

15. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koffler '553 in view of Stelzen (U.S. 3,181,198). Koffler discloses the invention substantially as claimed. However, Koffler doesn't teach the body comprising an interior region having ribs that run along a first and second wall extending from a hinge region, wherein a surface of the first and second walls comprises a plurality of bumps and ridges and a plurality of discrete protruberances. Stelzen teaches a body portion with

ribs 24 extending from a hinge region 22 and comprising bumps and ridges 26. It would have been obvious to also provide protuberances so that the coefficient of friction of the walls is increased. Therefore, it would have been obvious to one of ordinary skill in the art to provide Koffler's interior region with ribs, bumps and ridges, and protuberances to increase the versatility of the device to perform various operations on an object being gripped by the device.

### ***Conclusion***

16. The prior art made of record on the attached PTO-892, and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K Moran', with a stylized, cursive script.

Katherine Moran  
Primary Examiner  
Art Unit 3765

Kmm  
November 23, 2005